

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

EASTERN PACIFIC CHARTERING (22) INC.	PLAINTIFF(S)	CASE NUMBER:
v. LOUIS DREYFUS COMPANY		2:22-cv-05111-PA-JC
	DEFENDANT(S).	ORDER TO STRIKE ELECTRONICALLY FILED DOCUMENT(S)

The Court hereby **ORDERS** the documents listed below be **STRICKEN** for failure to comply with the Court's Local Rules, General Orders, and/or Case Management Order, as indicated:

EX PARTE APPLICATION for Issuance of Process of		
07/23/2022	/ 6	/ Maritime Attachment and Garnishment
Date Filed	Doc. No.	<i>Title of Document</i>
07/23/2022	/ 7	EX PARTE APPLICATION for Order for Appointing Special Process Server Pursuant to FED R CIV P 4(C)(3)

<i>Date Filed</i>	<i>Doc. No.</i>	<i>Title of Document</i>
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- Document submitted in the wrong case
- Incorrect document is attached to the docket entry
- Document linked incorrectly to the wrong document/docket entry
- Incorrect event selected. Correct event is _____
- Case number is incorrect or missing
- Hearing information is missing, incorrect, or not timely
- Local Rule 7.1-1 No Certification of Interested Parties and/or no copies
- Case is closed
- Proposed Document was not submitted as separate attachment
- Title page is missing
- Local Rule 56-1 Statement of uncontested facts and/or proposed judgment lacking
- Local Rule 56-2 Statement of genuine disputes of material fact lacking
- Local Rule 7-19.1 Notice to other parties of ex parte application lacking
- Local Rule 11-6 Memorandum/brief exceeds 25 pages
- Local Rule 11-8 Memorandum/brief exceeding 10 pages shall contain table of contents
- Other:

Dated: July 29, 2022

cc: Assigned District and/or Magistrate Judge

By: 
 U.S. District Judge / U.S. Magistrate Judge

Please refer to the Court's website at www.cacd.uscourts.gov for Local Rules, General Orders, and applicable forms.

Neil B. Klein, CA Bar No. 142734
neilk@mckassonklein.com
McKASSON & KLEIN LLP
18401 Von Karman Ave., Suite 330
Irvine, CA 92612
Phone: (949) 724-0200

Attorneys for Plaintiff Eastern Pacific
Chartering (22) Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

EASTERN PACIFIC CHARTERING (22) INC.,

Case No. 2:22-cv-5111

IN ADMIRALTY, Fed. R. Civ. P. 9(h)

Plaintiff,

vs

**LOUIS DREYFUS COMPANY FREIGHT
ASIA PTE LTD.,**

**EX PARTE APPLICATION FOR
ORDER APPOINTING SPECIAL
PROCESS SERVER PURSUANT TO
FED. R. CIV. P 4(C)(3) AND
SUPPLEMENTAL RULE B**

Defendant

and

DBS BANK LTD

Garnishee

20 Plaintiff Eastern Pacific Chartering (22) Inc. files this *Ex Parte* Application
21 pursuant Fed. R. Civ. P. 4(c)(3) and Supplemental Rule B(1)(d)(ii) of the
22 Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal
23 Rules of Procedure, for an order appointing Neil B. Klein of the undersigned firm
24 or a third party process server who is authorized to serve legal process under
25 California law, all over 18 years of age and not a party to the action, to act as
26 special process server to effect service of the Process of Maritime Attachment and
27 Garnishment and of any supplemental process in this matter on Garnishee DBS
28 Bank Ltd. and/or at any DBS Bank Ltd. branch within the Central District of

1 California where service is accepted.

2 Supplemental Rule B(1)(d)(ii) provides in pertinent part as follows:

3 If the property is other tangible or intangible property, the
4 summons, process, and any supplemental process must be
5 delivered to a person or organization authorized to serve it, who
6 may be (A) a marshal; (B) someone under contract with the United
7 States; (C) **someone specially appointed by the court for that**
8 **purpose**; or, (D) in an action brought by the United States, any
9 officer or employee of the United States.

10 (Emphasis added). Fed. R. Civ. P. Rule 4(c)(3) provides in relevant part: "At the
11 plaintiff's request, the court may order that service be made by a United States
12 marshal or deputy marshal or by a person specially appointed by the court."

13 As further basis for this motion, service of the maritime garnishment writs issued
14 on garnishees in this District will be straightforward and involve delivery of the writ
15 to the garnishees believed to be in possession of funds. Service of maritime
16 garnishment writs will not involve restraint of physical property. Utilizing private
17 process service will conserve the resources of the United States Marshal.

18 Plaintiff will, upon service, promptly cause returns of service to be filed.

19 WHEREFORE, Plaintiff respectfully requests this Court to grant the *ex parte*
20 relief requested and appoint a special process server who is over the age of 18
21 and not a party to this action, as set out in the proposed order submitted
22 concurrently herewith.

23 Date: July 23, 2022

Respectfully submitted,

25 _____
26 /s/ Neil B. Klein
Neil B. Klein
27 McKasson & Klein LLP
Attorneys for Plaintiff Eastern Pacific
Chartering (22) Inc.
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

EASTERN PACIFIC CHARTERING
(22) INC.,

Case No. 2:22-cv-5111

Plaintiff.

IN ADMIRALTY

vs.

**LOUIS DREYFUS COMPANY
FREIGHT ASIA PTE LTD..**

**[PROPOSED] ORDER APPOINTING
SPECIAL PROCESS SERVER
PURSUANT TO FED. R. CIV. P
4(C)(3) AND SUPPLEMENTAL
RULE B**

Defendant

and

**DBS BANK LTD.,
Garnishee**

22 The Court, having reviewed Plaintiff Eastern Pacific Chartering (22) Inc.'s *Ex*
23 *Parte* Application filed pursuant Fed. R. Civ. P. 4(c)(3) and Supplemental Rule
24 B(1)(d)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims
25 of the Federal Rules of Procedure, for an order appointing a special process
26 server to effect service of the Process of Maritime Attachment and Garnishment
27 and of any supplemental process in this matter, and it appearing that such
28 appointment will result in substantial economies in time and expense, hereby:

ORDERS that Neil B. Klein of McKasson & Klein LLP, or any third-party process server who is authorized to serve legal process under California law, each over 18 years of age and not a party to the action, is hereby appointed and to act as special process server to effect service of the Process of Maritime Attachment and Garnishment and Verified Complaint in this action, and to effect service of any supplemental process in this matter.

IT IS SO ORDERED.

Date: July ____ , 2022.

United States District Court Judge

1 Neil B. Klein, CA Bar No. 142734
2 neilk@mckassonklein.com
3 McKASSON & KLEIN LLP
4 18401 Von Karman Ave., Suite 330
5 Irvine, CA 92612
6 Phone: (949) 724-0200
7 Attorneys for Plaintiff
8 Eastern Pacific Chartering (22) Inc.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

EASTERN PACIFIC CHARTERING
(22) INC.,

Case No. 2:22-cv-5111

IN ADMIRALTY, Fed. R. Civ. P. 9(h)

Plaintiff,

vs.

LOUIS DREYFUS COMPANY
FREIGHT ASIA PTE LTD.,

**EX PARTE APPLICATION FOR
ORDER AUTHORIZING ISSUANCE
OF PROCESS OF MARITIME
ATTACHMENT AND
GARNISHMENT; POINTS AND
AUTHORITIES**

Defendant,

and

DBS BANK LTD.,

Garnishee

Plaintiff Eastern Pacific Chartering (22) Inc. (“EPC22”) files this *Ex Parte* Application pursuant to Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure, for an order authorizing immediate issuance of process of maritime attachment and garnishment for the property of Defendant Louis Dreyfus Company Freight Asia Pte Ltd. held or controlled by garnishees, including DBS Bank Ltd. or its agents, within in this District.

This Application is based on EPC22’s Verified Complaint on file with the Court,

1 the attached memorandum of points and authorities, accompanying proposed
2 order and proposed Process of Maritime Attachment and Garnishment, the
3 relevant pleadings, documents and matters of which the Court may take judicial
4 notice, and such other matters which may properly come before this Court.

5 Date: July 23, 2022.

6 Respectfully submitted,
7 /s/ Neil B. Klein

8 Neil B. Klein
9 McKasson & Klein LLP
10 Attorneys for Plaintiff Eastern Pacific
11 Chartering (22) Inc.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Eastern Pacific Chartering (22) Inc. (“EPC22” or “Plaintiff”) moves, pursuant to Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure (“Rule B”), for an Order directing the Clerk to issue Process of Maritime Attachment and Garnishment (“Writ”) for the property of Defendant Louis Dreyfus Company Freight Asia Pte Ltd. (“LDCFA” or “Defendant”) held or controlled by named Garnishee DBS Bank Ltd. and providing further that the Clerk may issue additional writs on application by EPC22.

II. THE CONDITIONS FOR RULE B PROCESS ARE SATISFIED

Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure (“Rule B”) permits a plaintiff to attach defendant’s property in the hands of garnissees if: (1) Plaintiff has a valid *prima facie* admiralty claim against defendant; (2) defendant cannot be found within the district; (3) defendant’s property can be found within the district, and (4) there is no statutory or maritime law bar to the attachment. Fed. R. Civ. P., Supp. Rule B; *Equatorial Marine Fuel Mgmt. Servs. Pte v. MISC Berhad*, 491 F.3d 1208, 1210(9th Cir. 2010), *Aqua Stoli Shipping Ltd. v. Gardner Smith Pty. Ltd.*, 460 F.3d 434, 445 (2nd Cir. 2006). The standard of proof for a plaintiff seeking maritime attachment under Rule B is permissive in the initial pleading stage as plaintiff need not prove its claim by a preponderance of the evidence, or to a similar standard, but rather present sworn factual assertions satisfying the four prerequisites.

A. EPC22 Has a Valid Admiralty Claim Against Defendants

Plaintiff’s Verified Complaint confirms that Defendant chartered the Vessel from EPC22 pursuant to a Charter Party dated May 4, 2021 for the transport of Cargo from Indonesia to Greece. The Cargo was loaded on the Vessel in accordance with the stowage plan provided by LDCFA. Defendant’s stowage plan was faulty, allowing the temperature of the Cargo to significantly exceed the

1 specifications for the transportation of the Cargo, resulting in damage to the
 2 Cargo. Defendants have failed to pay for those damages.

3 Accordingly, EPC22 has set out enough facts in its Verified Complaint to state
 4 a *prima facie* admiralty claim under general maritime law. *Interpool, Ltd. v. Char*
 5 *Yigh Marine SA*, 890 F.2d 1453, 1454, fn 2 (9th Cir. 1989) (charter party is a
 6 maritime contract).

7 **B. Defendant's Property Is Found Within This District**

8 EPC22 seeks attachment of Defendants' property, as defined in the Verified
 9 Complaint, including but not limited to accounts held by Garnishee DBS Bank Ltd.
 10 and any other funds/property maintained by the Garnishee for the benefit of
 11 Defendant.

12 The Verified Complaint sets out the factual "bases for its belief that
 13 [D]efendant's property may be found within this District, as well as the garnissees
 14 it seeks authorization to serve." *Wight Shipping, Ltd. v. Societe Anonyme*
 15 *Marocaine de L'Industrie Du Raffinage S.A.*, 2008 U.S. Dist. LEXIS 106420, *7
 16 (S.D.N.Y. Nov. 24, 2008) (considering pleading requirements for "property held by
 17 garnishee" under Rule B). "At the pleading stage, no obligation exists to prove
 18 anything, only to allege 'enough facts to state a claim to relief that is plausible on
 19 its face.'" *Capitol Records, Inc. v. City Hall Records, Inc.*, 2008 U.S. Dist. LEXIS
 20 55300, *21–22 (S.D.N.Y. July 18, 2008) (quoting *Bell Atlantic Corp v. Twombly*, 550
 21 U.S. 544 (2007)). EPC22's allegations demonstrate a "plausible" entitlement to a
 22 maritime attachment because they "at least show that it is plausible to believe that
 23 Defendant's property will be "in the hands of" garnissees in [this District] at the time
 24 the requested writ of attachment is served or during the time that service is
 25 affected. *Peninsula Petroleum Ltd. v. New Econ Line Pte Ltd.*, 2009 U.S. Dist.
 26 LEXIS 24470, *5 (S.D.N.Y. Mar. 17, 2009).

27 Specifically, EPC22 is informed and believes that Defendant does, or will during
 28 the pendency of this action, have tangible or intangible property within the Central

1 District of California. Named garnishee DBS Bank Ltd. does business with
2 Defendant and has an office or agents located in this District which, on information
3 and belief, EPC22 reasonably believes holds accounts which are the property of
4 and/or owing to Defendant. See Dkt. 1, ¶16. The proposed Writ thus names DBS
5 Bank Ltd. and orders the garnishment of Defendant's property (bank accounts).
6 Plaintiff's proposed Writ also limits garnishments "to the amount sued for" as
7 required by Rule B.

C. There Is No Statutory or Maritime Law Bar to Rule B Process

9 There is no statutory or maritime bar to the instant application for Rule B
10 process of maritime attachment and garnishment.

11 | III. CONCLUSION

12 For the reasons stated herein EPC22 respectfully requests that the Court direct
13 the Clerk to issue process of attachment and garnishment of Defendant's property,
14 including but not limited to accounts held by Garnishee DBS Bank Ltd., and any
15 other funds/property maintained by garnishee(s) for the benefit or on behalf of
16 Defendant.

17 | Date: July 23, 2022

Respectfully submitted,

/s/ Neil B. Klein
Neil B. Klein
McKasson & Klein LLP
Attorneys for Plaintiff Eastern Pacific
Chartering (22) Inc.

1	UNITED STATES DISTRICT COURT	
2	CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION	
3	EASTERN PACIFIC CHARTERING (22) INC.,	Case No. 2:22-cv-5111
4	Plaintiff,	IN ADMIRALTY
5	vs.	
6	LOUIS DREYFUS COMPANY FREIGHT ASIA PTE LTD.,	PROCESS OF MARITIME ATTACHMENT AND GARNISHMENT
7		
8	Defendant,	
9		
10	and	
11	DBS BANK LTD.,	[Rule B(1) of the Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal Rules of Civil Procedure]
12		
13	Garnishee	
14		

15 **GARNISHEE: DBS BANK LTD.**

16 **WHEREAS**, Plaintiff Eastern Pacific Chartering (22) Inc. (“Plaintiff”) filed a
17 Verified Complaint on July 23, 2022, in the United States District Court for the
18 Central District of California, for amounts alleged due and owing to said Plaintiff
19 by Defendant LOUIS DREYFUS COMPANY FREIGHT ASIA PTE LTD. in the
20 sum of at least **\$3,004,704.40**, and praying for Process of Maritime Attachment
21 and Garnishment against Louis Dreyfus Company Freight Asia Pte Ltd. pursuant
22 to Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal
23 Rules of Procedure (“Rule B”); and

24 **WHEREAS**, this Process of Maritime Attachment and Garnishment issued
25 following the Court’s review of Plaintiff’s Verified Complaint, verification, and ex
26 *parte* application for issuance of process of maritime attachment and
27 garnishment, pursuant to which the Court found the conditions of Rule B appear

1 to exist and entered an Order so stating and authorizing issuance of process of
2 maritime attachment and garnishment;

3 **NOW, THEREFORE**, you are hereby commanded that if the said Defendant
4 cannot be found within the District, you attach the following pursuant to
5 Supplemental Rule E(5) for Certain Admiralty and Maritime Claims of the Federal
6 Rules of Procedure:

7 All assets, cash, funds, credits, wire transfers, accounts, letters of
8 credit, electronic fund transfers, freights, sub-freights, charter hire,
9 sub-charter hire, or any other tangible and/or intangible assets
10 belonging to, due, claimed by, being held for or on behalf of, or being
11 transferred for the benefit of Defendant Louis Dreyfus Company
12 Freight Asia Pte Ltd. within this District up to **\$3,004,704.40**, and that
13 the same be attached as may be found in the possession of
14 garnissees or which are found in the possession or control of
15 specific garnishee DBS Bank Ltd., and/or any other garnishee within
16 this District.

17 **YOU ARE FURTHER COMMANDED**, promptly after execution of this
18 process, to file notice in this Court with your return thereon and mail a copy to
19 the attorney at whose request the execution was completed.

20 WITNESS THE HONORABLE Judge _____, Magistrate Judge of this
21 Court, this ____ day of July 2022.

22 By: _____
23 CLERK OF THE COURT

24 BY: _____
25 Deputy Clerk

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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

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EASTERN PACIFIC CHARTERING
(22) INC.,

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Plaintiff,

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vs.

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LOUIS DREYFUS COMPANY
FREIGHT ASIA PTE LTD.,

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Defendant,

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and

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DBS BANK LTD.,

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Garnishee

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Case No. 2:22-cv-5111

IN ADMIRALTY

**[PROPOSED] ORDER
AUTHORIZING ISSUANCE OF
PROCESS OF MARITIME
ATTACHMENT AND
GARNISHMENT**

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The Court, having reviewed Plaintiff Eastern Pacific Chartering (22) Inc.'s *Ex Parte* Application for Issuance of Process of Maritime Attachment and Garnishment, together with the Verified Complaint and the attorney declaration averring that Defendant Louis Dreyfus Company Freight Asia Pte Ltd. cannot be found in the Central District of California, and finding that the conditions of Supplemental Rule B for Certain Admiralty and Maritime Claims of the Federal Rules of Procedure ("Rule B") appear to exist, hereby:

1 **ORDERS** that the Clerk of this Court issue Process of Maritime Attachment
2 and Garnishment, pursuant to Rule B, for all assets, cash, funds, credits, wire
3 transfers, accounts, letters of credit, electronic fund transfers, freights, sub-
4 freights, charter hire, sub-charter hire, or any other tangible and/or intangible
5 assets belonging to, due, claimed by, being held for or on behalf of, or being
6 transferred for the benefit of Defendant Louis Dreyfus Company Freight Asia Pte
7 Ltd., including, but not limited to any such assets as may be in the possession,
8 custody or control of, or being transferred through any garnishee within this
9 District, and said Order being equally applicable with respect to the issuance and
10 service of additional writs of maritime attachment and garnishment upon any
11 garnissees in this District not named herein, pursuant to Rule B of the
12 Supplemental Rules for Certain Admiralty and Maritime Claims of the Federal
13 Rules of Civil Procedure;

14 **ORDERS** that any person claiming an interest in the property attached or
15 garnished pursuant to said Order shall, upon application to the Court, be entitled
16 to a prompt hearing at which Plaintiff shall be required to show why the
17 garnishment or attachment should not be vacated or other relief granted;

18 **ORDERS** that any property attached or garnished pursuant to this Order may
19 be released from seizure without further order of the Court, as long as the
20 garnishee receives written authorization for the release from the attorney who
21 requested the attachment and garnishment, which written authorization shall
22 state that all parties in the Action have conferred through their counsel and
23 consent to the request for release, and provided that the Court has not entered
24 an order modifying the procedure for release of property attached pursuant to
25 this Order;

26 **ORDERS**, that the Clerk may issue supplemental or further writs of maritime
27 attachment and garnishment upon request by Plaintiff and without further order
28 of the Court;

ORDERS that following initial service of a writ of maritime attachment and garnishment on any Garnishee, supplemental service of maritime attachment and garnishment writs on that Garnishee and related papers may be made by way of facsimile transmission or email to each such Garnishee;

ORDERS that service on any Garnishee as described above is deemed continuous throughout the day from the time of such service through the opening of the Garnishee's business the next business day;

ORDERS that pursuant to Federal Rule of Civil Procedure 5(b)(2)(D), each Garnishee may consent, in writing, to accept service by any other means;

ORDERS that a copy of this Order be served with each said writ of maritime attachment and garnishment; and,

ORDERS that to afford an opportunity for an expeditious hearing of any objections which might be raised by Defendant, or any Garnishee, a hearing may be set by calling the case manager of the undersigned.

IT IS SO ORDERED.

Date: July ____ , 2022.

United States District Court Judge